

THE STATE BAR OF CALIFORNIA

REQUEST FOR PROPOSAL

March 17, 2003



CASE MANAGEMENT SOLUTION

Proposals Due 5:00 p.m. (Pacific Standard Time), Monday, April 21, 2003.

I. INTRODUCTION

This document is a Request for Proposal (“RFP”) for a case management system (“CMS”) for the Office of General Counsel of the State Bar of California.

The State Bar of California (“State Bar”), created in 1927 by the Legislature and written into the constitution as a judicial branch agency in 1966, is a public corporation within the judicial branch of state government. In accordance with the State Bar’s procurement policies, all contracts estimated to be in excess of \$50,000 are subject to formal competitive bidding. As a governmental agency, the State Bar typically receives governmental pricing and contract terms and conditions.

The State Bar is seeking to purchase a CMS to be used by the Office of the General Counsel (“OGC”). OGC acts as in-house counsel for the State Bar. Its 12 lawyers provide the type of legal advice and representation to the State Bar that most government lawyers do at the State or local levels. The OGC manages and maintains over 1,000 cases and case-related matters each year. OGC’s cases are categorized as “litigation” or “advice” and include the following.

Litigation: OGC represents the State Bar in all state and federal courts; the nature of the cases is largely law-and-motion or appellate, with most matters resolved with little or no discovery.

OGC also represents the State Bar in labor arbitrations and in responding to complaints, summons and subpoenas issued by various state and federal administrative agencies. ***Advice:*** OGC drafts legal opinions and provides legal advice to the State Bar’s governing board, commissions and committees, and executive staff and employees. OGC reviews and drafts all State Bar contracts. OGC reviews and drafts court rules for approval by the California Supreme Court; it reviews and assists in the drafting of proposed legislation; and it reviews and drafts State Bar rules and regulations.

The OGC uses a legacy case tracking and time keeping system written in RPGIII. The system resides on an A/S 400 server using DB2/400 as its database. OGC has recognized that its current system does not fully meet its operational requirements. A CMS may provide a suitable solution to managing such information more productively and efficiently.

This RFP sets forth the State Bar’s requirements and procurement process for a CMS solution. To be responsive to the RFP, a proposal must fully explain how the solution proposed will satisfy each requirement. The State Bar prefers to have a solution that functionally integrates as many of the specifications as feasible. The proposal must address all mandatory specifications and may incorporate commercially available or custom-built products. Responses will be evaluated using the methodology described in **Section III.D.**

II. SCOPE OF WORK

The business requirements are organized into two sections: Functional and Technical. The functional requirements may be found in the attached functional requirements matrix (See Attachment 1). The functional requirements matrix is further organized into two categories: mandatory and desirable.

Mandatory requirements are listed first and are followed by desirable requirements in *italics*. Each mandatory requirement listed is essential to the solution. Desirable requirements are not essential to the solution but their availability may enhance the score given to the proposed solution.

The technical requirements may be found within this section.

A. Technical Environment/Requirements

1. Current Environment

The OGC is located at the State Bar headquarters in San Francisco, California. There are 23 employees in the OGC. Approximately 100% of OGC users are expected to use the proposed CMS solution. Those users are considered to be proficient in Corel WordPerfect and Microsoft Office for baseline computer literacy purposes as well as the legacy case tracking system we currently employ.

While acknowledging that a CMS will require integration of a new technology into the computing environment described in this section, the State Bar expects the proposed Microsoft Windows server based solution to be fully operational with minimal changes to the environment.

1.1. Network

Current Intel-based operating systems of choice at the State Bar include Windows NT 4.0 and Windows 2000 servers. There is an initiative to migrate to an all-Windows 2000 native mode server environment in the first quarter of 2003. There is also OS/400 running on two AS/400 midrange computers. SQL Server 2000 is currently used in the windows server environment while DB/2 is used in the AS/400 environment.

Workstations used at the State Bar are Intel-based computers. Processors range from 550 MHz Pentium IIIs to 1.7 GHz Pentium 4s. Memory in each workstation ranges from 128MB to 1GB RAM. The majority of workstations are 550 MHz Pentium IIIs with 128MB of RAM.

1.2. Software

Workstations are currently using Windows NT 4.0 SP6. There are a few laptops with Windows 2000 Professional installed. Microsoft Office Standard is installed on each workstation along with Corel WordPerfect. The e-mail client used at the State Bar is Microsoft Exchange Outlook. The document management system is Hummingbird DM 5.

1.3. Legacy Case Tracking System

OGC currently uses a legacy case tracking and time keeping system written in RPGIII. It resides on an A/S 400 server using DB2/400 as its database.

This system divides the cases into two basic categories; litigation and advice. Each case assignment is put into one of the categories. The system tracks:

- Client Codes.
- OGC case number(s).
- Date of receipt, date of assignment and due dates.
- Attorney/Supervisor assignments.
- Status of cases.
- Names of the files where hard copies of the assignment reside.
- A “narrative” which provides descriptive information about the assignment.
- A docket, which shows dates and actions taken.
- Court(s) and case numbers(s) if litigation.
- Names of defendants for certain litigations.

This system also ties to our time keeping system. Codes for clients and attorneys are set in to the time keeping system which then crosses over to the case tracking system.

This system has been in place since 1986, while currently administering over 1000 case matters per year. The following table lists the caseloads for the last 4 years:

Case Types	2002	2001	2000	1999
Advice Items	871	745	735	505
Litigation Matters	269	283	238	192
Total	1140	1028	973	697

B. Implementation

1. Essential Scope of Goods and Services

The ideal system is a CMS solution that meets all of the specifications listed in the functional requirements matrix (See Attachment 1); however each vendor must clearly identify any requirement it cannot meet. The following criteria will define the success of a CMS implementation.

- ❑ The vendor will work with State Bar staff to install and configure the CMS in the State Bar’s computer room facility and user locations.

- ❑ Based on information provided by the State Bar, the vendor will identify and recommend the various options and associated costs for converting existing records on an AS/400 for use with the proposed CMS. Depending on the cost bids received for this portion of the implementation, the final contract entered into between the chosen vendor and the State Bar may or may not include this work.
- ❑ The vendor will provide detailed technical training that will enable up to three State Bar technical staff members to support and administer the system independently without routine assistance of the vendor or other contractors.
- ❑ The vendor will provide 'Train the Trainer' training and materials for two State Bar employees. Those designated employees shall then have the means and knowledge to independently conduct end user training without assistance from the vendor or other contractors.

III. GENERAL INFORMATION

A. Submission Requirements

Please submit an electronic copy via e-mail and five paper copies of your proposal in a sealed envelope no later than 5:00 p.m. on April 21, 2003. Any proposal shall constitute an irrevocable offer for 45 days following the deadline for submission. All responses to or questions regarding the RFP should be submitted, by e-mail only, to:

Sarah Byrne
Technical Services Analyst
The State Bar of California
180 Howard Street
San Francisco, California 94105-1639
Tel. 415.538.2000
Fax 415.538.2321
Sarah.byrne@calbar.ca.gov

B. Detailed Submission Requirements

1. Proposal Format

Proposals should be prepared as simply as possible and provide a straightforward, concise description of the vendor's capabilities to satisfy the requirements of the RFP. Utmost attention should be given to accuracy, completeness, and clarity of content. All parts, pages, figures, and tables should be numbered and clearly labeled. The proposal should be organized in the following major sections:

Section	Title
	Title Page
	Letter of Transmittal
	Table of Contents
I.	Executive Summary
II.	Scope of Services
III.	Company Background
IV.	Third-Party Products/Option Software
V.	Responses to Functional Requirements Matrix
VI.	Responses to Technical Requirements/Proposed Application Environment
VII.	Implementation Plan
VIII.	Training Plan
IX.	Maintenance And Support Program
X.	Client References
XI.	Cost Proposal
XII.	Sample Documents

2. Executive Summary (Proposal Section I.)

This part of the response to the RFP should be limited to a brief narrative summarizing the vendor's proposal, including cost quotations at summary level. It should also contain the primary contact information for the software vendor, the contact for implementation services, and the contact for any third-party software being proposed.

3. Scope of Services (Proposal Section II.)

This section of the vendor's proposal should include a general discussion of the vendor's overall understanding of the project and the scope of work proposed.

4. Company Background (Proposal Section III.)

Each proposal must provide the following information about the submitting vendor's company, the implementation partner's company and any third-party vendor being proposed to provide a business function so that the State Bar can evaluate the vendor's stability and ability to support the commitments set forth in the response to the RFP.

Background information shall include:

- ❑ A history of the company, including identity and qualifications of project director and other staff proposed to work on project.
- ❑ How long the company has been selling the proposed software to clients similar to the State Bar.
- ❑ A most recent annual report, including financial data and indication of resources dedicated to research and development.

- ❑ A brief description of partnerships with other companies.
- ❑ A brief description of the company size and organizational structure.
- ❑ Evidence that vendor, if a corporation, is in good standing and qualified to conduct business in California.
- ❑ Copies of business licenses, professional certifications or other credentials.

5. Third-Party Products/Optional Software (Proposal Section IV.)

Vendor must list all required hardware and any third-party software it proposes to be installed and configured prior to the agreed upon project kickoff date. Any custom configuration issues required to assure full compatibility with State Bar's existing network environment must be identified in advance.

6. Responses to Functional Requirements (Proposal Section V.)

Responses to the functional requirements matrix must be provided in this section of the vendor's proposal. Vendors should use the format provided and add explanatory details as necessary in a separate spreadsheet using the requirement number as a reference. The following answer key must be used when responding to the requirements:

F = Fully Provided "Out-of-the-Box"
 CO = Configuration (No changes to
 underlying source code)
 R = Provided with Reporting Tool
 TP = Third Party Software Required

CU = Customization (changes to underlying source code)
 NV = Provided in Next Version
 NA = Not Available

7. Responses to Technical Requirements/Proposed Application Environment (Proposal Section VI.)

The vendor must present in detail features and capabilities of the proposed application software. Please provide brief narrative answers to the following questions: **See Note*.

Technology architecture. The State Bar prefers a system that is fully operational with its technical environment and experience. **See Note*. How does your software utilize any of these platforms? What are the network requirements? What are the database requirements? What are the server requirements? What are the desktop (client) requirements? How do you propose the CMS to be installed?

Software Integration. The State Bar prefers a system that is fully integrated with its software environment. **See Note*. How does the CMS software integrate with the Microsoft Office, Corel WordPerfect 9, Microsoft Exchange 9, and Hummingbird DM 5?

Data Migration. The State Bar prefers a system that has the ability to easily import or export data using industry standard formats. The legacy case tracking system contains an estimated 17,000 cases, which must be transferred to the CMS. This data is in EBCDIC format. How do you propose transferring the data from the legacy case tracking system to the CMS?

Note. Refer to **Section II.A. for detailed information regarding the State Bar's technical/software environment.*

8. Implementation Plan (Proposal Section VII.)

In addition to the criteria described in **Section II.B.**, the vendor shall provide a written proposal describing the approach to accomplish the requirement work, including a detailed sample project plan, resource requirements, timeline and deadlines for all tasks.

9. Training Plan (Proposal Section VIII.)

The vendor shall provide a detailed plan for training the project team, end-users, and technology personnel. This information **MUST** include:

- ☐ Overview of proposed training, including options for on-site or off-site training services.
- ☐ Sample training materials.
- ☐ Use of third-party training resources, if applicable.

10. Maintenance and Support Program (Proposal Section IV.)

The proposal must specify the nature of any post-implementation and on-going support provided by the vendor including:

- ☐ Post-implementation support (e.g., one month of on-site support after go-live).
- ☐ Telephone support
- ☐ Special plans defining "levels" of customer support.
- ☐ Delivery method of future upgrades and product enhancements including historical frequency of upgrades.
- ☐ Problem reporting and resolution procedures.
- ☐ Bug fixes and patches.
- ☐ Support provided for third-party solutions.
- ☐ Other support (e.g., on-site, remote dial-in, Web site access to patches, fixes and knowledge base.)
- ☐ If there is to be a separate sample maintenance contract, vendor should attach form of such contract, if any.

11. Client References (Proposal Section X.)

The vendor shall provide, at minimum, three references, including contact name and telephone number, from organizations who have used your proposed product for similar projects.

12. Cost Proposal (Proposal Section XI.)

Vendors shall submit a detailed breakdown of project costs. Costs must be broken down into components to allow the State Bar to prioritize tasks over the term of the contract. Such component costs may include software licenses, hardware, implementation, maintenance, and training. If a vendor's solution would extend beyond a one-year agreement, all costs for subsequent years must also be detailed.

13. Sample Documents (Proposal Section XII.)

Vendors shall include sample copies of the following documents:

- ☐ Sample software licensing agreement.
- ☐ Sample implementation services agreement.
- ☐ Sample standard reports.
- ☐ Sample documentation (CD-ROM Format).

C. REJECTION OF PROPOSALS

The State Bar reserves the right to reject any or all submissions in whole or in part for any reason without incurring any cost or liability whatsoever. All proposals will be reviewed for completeness of the submission requirements. If a proposal fails to meet a material requirement in the Request for Proposal or if it is incomplete or contains irregularities, the proposal may be rejected. A deviation is material to the extent that a response is not in substantial accord with the requirements in the RFP.

Immaterial deviations may cause a bid to be rejected. The State Bar may or may not waive an immaterial deviation or defect in a proposal. The State Bar's waiver of an immaterial deviation or defect shall in no way modify the RFP or excuse a vendor from full compliance with solicitation document specifications.

All bids may be rejected in any case where it is determined that the proposals are not really competitive, where the cost is not reasonable, when the cost exceeds the amount expected, or when the bidding process demonstrates that the RFP is inadequate.

Proposals that contain false or misleading statements may be rejected if in the State Bar's opinion the information was intended to mislead the State Bar regarding a requirement of the RFP.

D. EVALUATION PROCESS AND “HIGHEST-SCORED VENDOR”

An evaluation team will review in detail all proposals that are received to determine the highest-scored vendor, under the criteria listed below.

The State Bar reserves the right to determine the suitability of proposals on the basis of a proposal's meeting administrative requirements, technical requirements, the review team's assessment of the quality and performance of the product and service proposed, and cost.

During the evaluation process, the State Bar may require a vendor's representative to answer questions with regard to the vendor's proposal. Failure of a vendor to demonstrate that the claims made in its proposal are in fact true may be sufficient cause for deeming a proposal non-responsive.

The following criteria will be used in reviewing and comparing the proposals and in determining the “highest-scored vendor.” The weight to be assigned to each criterion appears following each item:

- 1) Responsiveness of the proposal to original specifications set forth in the RFP, including those in Section IV applicable to contracting (40%);
- 2) The technical ability, capacity, and flexibility of the vendor to perform the contract in a timely manner, including demonstrated success in projects with similar requirements and any other contracts with the State Bar (20%);
- 3) The financial viability of the vendor as evidenced by standard financial reports and by related factors such as its business plan, market position, and strategic partnerships (10%);
- 4) The total cost of the proposal solution (30%). Costs will be evaluated only if a proposal is determined to be otherwise qualified. Costs should be itemized by type to allow the State Bar to implement the solution over the term of the contract.

Finalists in the evaluation process may be asked to conduct a product demonstration in connection with their proposals. Demonstrations are expected to be conducted during the second week of the evaluation period as necessary at the sole discretion of the State Bar. Product demonstrations will be held at a location mutually acceptable to the State Bar and the finalist or at the following location:

State Bar of California
180 Howard Street
San Francisco, CA 94105-1639
415.538.2000

A vendor selected for a demonstration will be solely responsible for any expenses, including travel, incurred in connection with a demonstration.

E. AWARD AND EXECUTION OF CONTRACT

Subject to the right of the State Bar to reject all bids, the highest-scored vendor will be awarded the contract.

Notice will be posted at the State Bar's offices at 180 Howard Street, San Francisco, CA and sent electronic mail to vendors no later than June 2, 2003 of the Bar's intention to award the contract to the highest-scored vendor. It is anticipated that final selection of the vendor will be made by July 7, 2003. The evaluation team will select a winning proposal subject to any approvals granted by the Board of Governors. Upon selection, a contract will be executed with the winning vendor in due course.

Optimally, the State Bar would like implementation to begin in the third quarter of calendar year 2003, with installation of basic components completed by the end of the third quarter of calendar year 2003.

Questions regarding the State Bar's award of any business on the basis of proposals submitted in response to the RFP, or on any related matter, should be addressed to Sarah Byrne at sarah.byrne@calbar.ca.gov or 415.538.2338.

Vendors are specifically directed not to contact any State Bar personnel for meetings, conferences or discussions related to this procurement, other than those specified in this RFP. Unauthorized contact of any State Bar personnel may be cause for rejection of a vendor's RFP response.

F. ERRORS IN THE RFP

If a vendor submitting a proposal discovers any ambiguity, conflict, discrepancy, omission, or other error in the RFP, the vendor should immediately provide the State Bar with written or electronic notice of the problem and request that the RFP be clarified or modified. Without disclosing the source of the request, the State Bar may modify the document prior to the date fixed for submission of proposals by issuing an addendum to all vendors to whom the RFP was sent.

If prior to the date fixed for submission of proposals, a vendor submitting a proposal knows of or should have known of an error in the RFP but fails to notify the State Bar of the error, the vendor shall bid at its own risk, and if the vendor is awarded the contract, it shall not be entitled to additional compensation or time by reason of the error or its later correction.

G. QUESTIONS REGARDING THE RFP

Should any vendor find discrepancies, omissions or ambiguities in this RFP, the vendor should contact Miss Byrne by e-mail and request an interpretation. All questions submitted will be answered via electronic mail to all potential vendors.

If a vendor's question relates to a proprietary aspect of its proposal or bid and the question would expose proprietary information if disclosed to competitors, the vendor may submit the question in writing via electronic mail, conspicuously marking it as "CONFIDENTIAL." With the question, the vendor must submit a statement explaining why the question is sensitive. If the State Bar concurs that the disclosure of the question or answer would expose proprietary information, the question will be answered, and both the question and answer will be kept in confidence. If the State Bar does not concur regarding the proprietary nature of the question, the question will not be answered in this manner and the vendor will be notified.

If a vendor submitting a proposal or bid believes that one or more of the solicitation document's requirements is onerous or unfair, or that it unnecessarily precludes less costly or alternative solutions, the vendor may submit a written request that the RFP be changed. The request must set forth the recommended change and the vendor's reason for proposing the change. Any such request must be submitted to the State Bar no later than 5:00 p.m. on April 1, 2003.

H. ADDENDA

The State Bar may modify the RFP prior to the date fixed for submission of proposals by emailing an addendum to the vendors to whom the RFP was sent. If any vendor determines that an addendum unnecessarily restricts its ability to bid, it must notify the State Bar no later than **one (1)** day following the receipt of the addendum.

I. WITHDRAWAL, RESUBMISSION, OR MODIFICATION OF PROPOSALS

A vendor may withdraw its proposal at any time prior to the deadline for submitting proposals by notifying the State Bar in writing of its withdrawal. The notice must be signed by the vendor. The vendor may thereafter submit a new or modified proposal, provided that it is received at the State Bar no later than the deadline. Modification offered in any other manner, oral or written, or received after the deadline for submitting proposals will not be considered. All figures entered on the cost sheets must be clearly legible. Proposals cannot be changed after the evaluation process begins.

J. PROTEST PROCEDURE

A vendor submitting a proposal may protest the award if it meets all the following conditions:

- 1) The vendor has submitted a proposal that it believes to be the most responsive bid, under the criteria set forth in **Section III.D.**;
- 2) The vendor believes that its proposal meets the State Bar's administrative and technical requirements, proposes services of proven quality and performance, and offers a competitive cost to the State Bar; and
- 3) The vendor believes that the State Bar has incorrectly selected another vendor submitting a proposal for award.

A vendor submitting a proposal who is qualified to protest should contact:

Bill Brauer
The State Bar of California
180 Howard Street
San Francisco, California 94105-1639
bill.brauer@calbar.ca.gov
Tel. 415.538.2543
Fax 415.538.2389

If Mr. Brauer is unable to resolve the protest to the vendor's satisfaction, the vendor should file a written protest which must be received at the State Bar **within five (5) working days of the notice of intention to award contract**. The written protest must state the facts surrounding the issue and the reasons the vendor believes the award to be invalid. The protest must be sent by certified or registered mail or delivered personally to:

Sam Quan
The State Bar of California
180 Howard Street
San Francisco, CA 94105-1639
sam.quan@calbar.ca.gov
Tel. 415.538.2000

A receipt should be requested for hand-delivered mail.

Protests will be reviewed and decided by the State Bar's Award Protest Team in accordance with the State Bar's protest procedures within thirty (30) days after the State Bar issues written acknowledgment of the protest. In the event that a protest is filed, the contract award will be postponed pending resolution of the protest.

K. NEWS RELEASES/PUBLIC COMMUNICATIONS

Public communications of any nature pertaining to the award of a contract may not be made without the prior written approval of the State Bar.

L. DISPOSITION OF MATERIALS

All materials submitted in response to an RFP will become the property of the State Bar and will be returned to the vendor only at the State Bar's option and at the expense of the vendor submitting the proposal or bid. One copy of a submitted proposal will be retained for official files and become a public record. However, any confidential material or proprietary material submitted by a vendor that was clearly marked as such will be returned upon request. Remaining non-confidential material in the proposal, including proposed cost and compensation, will be maintained for the Bar's official files and will be subject to public inspection.

IV.CONTRACTING REQUIREMENTS

Upon selection of a vendor, the terms set forth in this RFP are to be embodied in a definitive agreement containing such additional covenants and other provisions as may be mutually acceptable. Vendor's agreement to contract on the terms set forth in this RFP shall be presumed, unless specifically reserved by the vendor in its submission materials.

The State Bar contemplates that, in addition to the scope of services described in this RFP, final agreement between the State Bar and the selected vendor will include, without limitation, the following principal terms:

A. TIME IS OF THE ESSENCE

Time is of the essence with respect to vendor's performance of the services to be provided in the final agreement. It is assumed any proposed solution will be fully operational six months from the implementation date.

B. TERM

To the extent that the vendor's proposal cannot be implemented within one year or incorporates multi-year licenses or services, the State Bar anticipates a multi-year contract not exceeding five (5) years. All costs associated with a multi-year contract must be presented in the vendor's proposal.

C. RIGHTS TO INTELLECTUAL PROPERTY

The State Bar shall retain sole and exclusive ownership of any concepts, artwork, graphic design, layout, product customizations, or programs created pursuant to this agreement.

During the term of the agreement and upon termination thereof for any reason whatsoever, including breach by the State Bar, information, data, and images provided by the State Bar will be the property of the State Bar or other third party vendors. Vendor will refrain from disclosing any and all such information, data and images to any third party without first obtaining the written consent of the State Bar. Vendor will not use or permit a third party to use any of the work product in connection with the project without the prior written consent of the State Bar.

Nothing in the agreement conveys to vendor any right or interest in or to any intellectual property owned by the State Bar or its sub-entities, including but not limited to the State Bar Graphics, content, management reports, departmental profiles, and any other customization work on selected CMS for use at the State Bar.

Notwithstanding the above, during the term of the agreement and upon termination thereof for any reason whatsoever including breach by vendor, the proprietary information used by vendor for the State Bar, including but not limited to the source, object codes (software code), trademarks and trade secrets, BUT NOT including the concept, layout, implementation strategy

and planning, or programs prepared by vendor for the State Bar which will remain the property of vendor.

D. WARRANTIES AND REPRESENTATIONS

To the extent that third party manufacturers have made to vendor any warranties or other commitments regarding products or services that the vendor has included in its proposal to the State Bar, vendor will assign to the State Bar all of such manufacturers' warranties and commitments.

For any customized applications prepared by vendor, vendor will provide a one-year warranty.

Vendor will warrant and represent that it possesses such expertise, experience and resources to perform the scope of services required in a diligent, timely and professional manner consistent with the standards of the industry. Vendor will supply at all times an adequate number of well-qualified personnel to perform the work.

Vendor will warrant that its solution shall conform to and be reasonably free of error and/or defects in material and workmanship, and fit for the purpose for which it is to be used. Vendor will, at its sole cost and expense, promptly perform any and all corrections of error that occur as a result of its own, its contractors' or subcontractors' negligence, make any corrections and modifications to the solution necessary or desirable to cure any non-conformity with the Specifications, and repair said system or components so as to remedy any defects in material and/or workmanship.

Vendor will represent and warrant that the solution will not infringe any copyright or other proprietary right (including trade secrets) of any third party, and that vendor has full authority to grant all rights to the State Bar hereunder.

Vendor will represent and warrant that no claim, regardless of whether embodied in an action past or present, of infringement of any patent, copyright, trademark, or other intellectual property right, has been made or is pending against vendor or any entity from which vendor has obtained such rights relative to the proposal presented to the State Bar hereunder.

E. ALTERNATIVE RESOURCES

The chosen vendor should have sufficient alternative resources so the State Bar's project can be completed by deadline in the event that the vendor's primary resource cannot complete the project as planned. In the event that the use of alternative resources results in additional expense to the State Bar, vendor will reimburse the State Bar for such expense.

F. ACCEPTANCE TESTING

The State Bar will work with the chosen vendor to define an acceptance test plan that will enable the State Bar to determine the success of the CMS. In the event the solution fails the acceptance test, the State Bar reserves the right to terminate this agreement with no charges or penalties,

reject all portions of the CMS, if any, previously accepted and shall thereupon be entitled to a return of all amounts paid to Vendor. Termination shall be in addition to, and not in lieu of, any other rights and remedies that State Bar may have under this agreement, or at law or equity.

G. PAYMENT SCHEDULE

The agreement will include a payment schedule providing for compensation to be paid in increments as project milestones are completed. The final percentage of payment will be withheld pending favorable completion of acceptance testing.

H. TERMINATION

The agreement may be terminated by the State Bar, in its sole discretion, upon thirty days' written notice to vendor. In the event of such termination not due to the default by vendor under the agreement, vendor's sole compensation will be (1) performance fees for completed deliverables as set forth in the agreement, (2) an amount determined on a pro rata basis on percent completion for those deliverables in progress but not completed, and (3) reasonable fees for program shutdown based on actual documented costs incurred by vendor, including but not limited to personnel termination costs; provided, however, that vendor will not be paid for any services associated with any work or service which was not authorized by the State Bar pursuant to the agreement.

The agreement may be terminated by the State Bar upon five days' written notice to vendor in the event vendor is in Default as defined in the agreement. Upon notice of termination, vendor will deliver to the State Bar any and all work product completed and paid for by the State Bar within thirty days of said notice. In addition, vendor will be liable to the State Bar for the difference between vendor's bid price and the actual cost of performing work by the second lowest vendor or by another vendor.

The agreement will automatically terminate on the occurrence of any of the following events: (a) bankruptcy or insolvency of either party; (b) failure to comply with federal, state or local laws, regulations or requirements that materially affect the agreement, or (c) expiration of the agreement.

I. APPROPRIATION OF FUNDS

If the term of the agreement extends into fiscal years subsequent to that in which it is approved, such continuation of the contract is subject to the appropriation of funds for such purpose by the Legislature. If funds to effect such continued payment are not appropriated, vendor agrees to take back any affected equipment, products, software, or hardware furnished under this agreement, terminate any services supplied to the State Bar under this agreement, and relieve the State Bar of any further obligation therefor.

The State Bar agrees that if the above is invoked, equipment will be returned to vendor in substantially the same condition in which it was delivered to the State Bar, subject to normal

wear and tear. The State Bar further agrees to pay for packing, crating, and transportation to vendor's nearest facility.

J. INDEMNITY OBLIGATIONS OF VENDOR

To the fullest extent permitted by law, vendor agrees to protect, indemnify, defend and hold State Bar (its Board of Governors, officers, agents, and employees, as the same may be constituted now and from time to time hereafter) (the "Indemnities") entirely harmless from and against any and all liability, losses or damages or any expenses or costs whatsoever to State Bar, including reasonable attorneys' fees and costs, as a result of any claims, demands, damages, costs or judgments against State Bar arising directly or indirectly from or in connection with (a) any breach of this agreement, (b) any actual or alleged negligent act, negligent error or omission, intentional misconduct of, or violation of any law by vendor, vendor's employees, subcontractors, agents, representatives or assigns (collectively, the "vendor's agents") in the performance or non-performance of the professional services required to be performed by vendor under the agreement; or (c) State Bar's enforcement of its rights under this indemnity provision. Vendor's obligations under this indemnity will survive the expiration and termination of this agreement.

Vendor will further defend, indemnify and hold harmless State Bar (its Board of Governors, officers, agents, and employees, as the same may be constituted now and from time to time hereafter) from and against any and all liability, losses or damages or any expenses or costs whatsoever to State Bar, including reasonable attorneys' fees and costs, as a result of any claims, demands, damages, costs or judgments against State Bar based on allegations that, as a consequence of the services rendered hereunder, any program or software designed, developed, amended, merged or restructured, or any part thereof, alone or in combination with other programs or software, infringes on any patent or copyright or misappropriates a trade secret. If any such program or software or any part thereof, is held to constitute an infringement or misappropriation, and use of the program or software is enjoined, vendor will, at its own expense, either: (1) procure for State Bar the right to continue to use the program or software or part thereof; (2) replace the program or software with a non-infringing replacement, provided that such replacement does not compromise performance and otherwise meets State Bar's specifications; or (3) modify the program or software to make it non-infringing, provided that such modification does not compromise performance and otherwise meets State Bar's specifications.

In the event both State Bar and vendor are named as defendants in the same civil action, and State Bar determines that a conflict of interest exists between the parties, Vendor will agree to provide, at its own cost, independent counsel for State Bar. State Bar may, at its option, designate its Office of General Counsel as equal participating counsel in any litigation wherein vendor defends State Bar.

K. INSURANCE OBLIGATIONS OF VENDOR

The vendor will agree to provide and keep in full force and effect during the term of the Agreement, at the vendor's own cost and expense, the following insurance policies for the joint benefit of the vendor and the State Bar, with an insurer reasonably acceptable to the State Bar:

- 1) Commercial general liability insurance with a general aggregate limit (other than products/completed operations) of at least Two Million Dollars (\$2,000,000.00); at least One Million Dollars (\$1,000,000.00) personal and advertising injury limit; at least One Million Dollars (\$1,000,000.00) premises and operations limit; at least One Million Dollars (\$1,000,000.00) each occurrence limit;
- 2) Workers' compensation coverage as required by law, together with employer liability coverage with limits of not less than One Million Dollars (\$1,000,000.00) per occurrence.
- 3) Comprehensive automobile liability insurance covering owned, leased, hired and non-owned vehicles with at least One Million Dollars (\$1,000,000.00) combined single limit.
- 4) Professional Liability insurance with general aggregate limit of Two Million Dollars (\$2,000,000.00); each claim limit.

The vendor should provide the State Bar with true and correct copies of its insurance policies required above, and certificates of such insurance within seven (7) days following the execution of the Agreement. Each such policy of insurance should name the State Bar as an additional insured and should state that such policy or policies shall be primary and that any insurance carried by State Bar shall be non-contributing with respect thereto. Each such policy of insurance maintained pursuant to the agreement should provide for thirty (30) days' prior written notice to the State Bar in the event of cancellation or reduction in coverage or amount. If vendor fails to secure and maintain insurance policies complying with the provisions of the agreement, the State Bar may secure the appropriate insurance policies and the vendor will pay upon demand the cost of same to the State Bar or the State Bar may terminate the agreement. In addition to the insurance required to be obtained and maintained by the vendor, if the vendor assigns any portion of the duties under the agreement in accordance with the terms thereof, each subcontractor or assignee will purchase and maintain the same insurance coverage required hereunder.

The vendor should immediately notify the State Bar if the vendor's commercial general liability insurance contains restrictive endorsements other than those restrictive endorsements normally included in the State of California. If the vendor's commercial general liability insurance contains such restrictive endorsements, the vendor shall have five (5) business days to remove said restrictions. If the vendor is unable to do so, the State Bar may terminate the agreement in accordance with the agreement, except that notwithstanding anything to the contrary, the State Bar will only be required to give the vendor two (2) days' notice of such termination.

L. CONFIDENTIALITY AND PUBLICITY

Vendor should retain all confidential information provided by the State Bar in the strictest confidence and will neither use it nor disclose it to anyone other than employees requiring the information to perform services under the agreement entered into between the State Bar and vendor without the prior written consent of the State Bar. If requested by the State Bar, Vendor and any of its employees, subcontractors or agencies will sign an appropriate confidentially agreement. The State Bar retains the right to enjoin any unauthorized disclosure in an appropriate court of law. Vendor will not issue any public announcements concerning the State Bar without the prior written consent of the State Bar.

M. CONFLICT OF INTEREST

Vendor will immediately notify the State Bar, in writing, of any potential or actual conflicts of interest that arise or exist between or among the State Bar and any other persons and/or entities for whom Vendor provides services.

The State Bar, as a public corporation, is subject to statutorily mandated conflict of interest codes. (See Business and Profession Code section 6036; Government Code sections 82019 and 82048). Vendor will familiarize itself with the State Bar's conflict of interest codes and avoid any and all situations that could result in violation of the provisions of said codes.

N. ARBITRATION

Any question, claim or dispute arising out of or in connection with the agreement or this Addendum which is in excess of Five Thousand Dollars (\$5,000.00) will be referred to binding arbitration. Such arbitration will take place before one (1) arbitrator in the City and County of San Francisco, and will be conducted in accordance with Part 3, Title 9 of the California Code of Civil Procedure. The arbitrator will be bound to apply legal principles in accordance with California law, without regard to its conflict of laws principles, unless the alleged claim or dispute is otherwise pre-empted by federal law. By agreeing to this arbitration clause, neither party waives applicable defenses or immunities available to it under California or other applicable laws, including but not limited to California Government Code section 810 *et seq.* Any arbitration demand made under this clause must be made no later than one year from the expiration or termination of this agreement. The cost of the arbitration will be borne equally by the parties. Disputes of Five Thousand Dollars (\$5,000) or less will be handled in Small Claims Court in the City and County of San Francisco.

O. SUBCONTRACTS

Vendor may subcontract with other qualified firms or individuals as required to complete all, or a portion of, the Work, subject to the approval of the State Bar. Vendor will clearly describe the reason for using any subcontractors, the specific role of each subcontractor, and the relationship between vendor and its subcontractor, which will be maintained during the term of the agreement. Any such proposed subcontract will be subject to the written approval of the State Bar, not to be unreasonably withheld, prior to award of such subcontract by vendor. No

subcontract will be approved unless vendor provides a written guarantee that vendor's firm will be contractually obligated to assume all responsibilities and the insurance requirements set forth above.

Vendor will be responsible for the performance, in accordance with the agreement, of all subcontracted work and vendor will be liable to the State Bar for such performance as if such subcontracting had not occurred. Substitution or addition of subcontractors will be permitted only as authorized in writing by the State Bar.

F = Fully Provided “Out-of-the-Box”

CO = Configuration (No changes to underlying source code)

R = Provided with Reporting Tool

TP = Third Party Software Required

CU = Customization (changes to underlying source code)

NV = Provided in Next Version

NA = Not Available

Reference Number	Functional Requirements	Response	Answer Submitted	Comments
IFM	Information Management			
IFM1	Ability to manage each case or matter in one file location, including client management, events, to do's, contacts, custom data forms, notes, documents, email, web/legal research, and other case related matters.			
IFM2	Ability to create routine documents, labels and envelopes using the case matter database.			
IFM3	Ability to allow users to customize views of case or matters.			
IFM4	Ability to integrate with the State Bar's document management system, Hummingbird DM 5.			
IFM5	Ability to integrate and synchronize case matter information with Microsoft Outlook, laptops, and PDAs.			
<u>IFM6</u>	<u>Ability to integrate with web/legal research tools, such as Lexis-Nexis and WestLaw.</u>			
<u>CSD</u>	<u>Calendaring, Scheduling and Docketing</u>			
CSD1	Ability to access all users' case tracking management calendars in realtime.			
CSD2	Ability to integrate docketing with cases or matters.			
CSD3	Ability to automate tasks for cases or matters using email.			
CSD4	Ability to send reminders via email notification and automated activity motivated features for cases or matters.			
CSD5	Ability to automatically calculate and override legal dates and deadlines.			
CSD6	<i>Ability to set-up user-defined timetables/templates for scheduling and docket purposes.</i>			

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Reference Number	Functional Requirements	Response	Answer Submitted	Comments
TMK	Timekeeping			
TMK1	Ability to track time or expenses by case, matters, cost centers, clients and attorney.			
TMK2	Ability to track time from calendaring, scheduling, docketing, and other event-related activities to cases or matters.			
TMK3	Ability to flag duplicate time entries.			
TMK4	Ability to export time entry data into enterprise HR, payroll, and finance programs.			
UI	User Interface			
UI1	Ability to quickly access CMS via a web browser (e.g., Internet Explorer) or a native Windows application.			
UI2	Ability to run on State Bar of California standard Windows NT 4.0 or higher operating systems.			
UI3	Ability to integrate with existing State Bar standard software, including Microsoft Word, and Corel WordPerfect.			
RPT	Reporting			
RPT1	Ability to easily create and customize reports based on State Bar of California criteria.			
RPT2	Ability to save customized reports.			
RPT3	Ability to generate system level reports. Such reports may include security, audit trails, archive, case maintenance, and user related information.			
RPT4	<i>Ability to create and schedule batch report generation tasks.</i>			
SRC	Indexing and Searching			
SRC1	Ability to perform case, attorney or matter specific searching.			
SRC2	Ability to perform text and text phrase searching across the CMS.			

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Reference Number	Functional Requirements	Response	Answer Submitted	Comments
SRC3	Ability to define and use custom search fields based on individual preferences.			
SRC4	Ability to perform advanced search techniques including but not limited to Boolean, wild card, date range, and text proximity searches.			
SRC5	Ability to refine searches by modifying a current search without reentering information.			
SRC6	Ability to save frequently used and user-defined searches.			
SRC7	<i>Ability to reorder search results and print if desired.</i>			
ADM	Security and Administration			
ADM1	Ability to limit cases or matters access to authorized users only.			
ADM2	Ability for users to define content permission types for the type of tasks that can be performed on their cases or matters.			
ADM3	Ability to enable groups to work on cases or matters collaboratively with OGC.			
ADM4	Ability to recall case or matter deletions (e.g., Undo feature).			
ADM5	Support the ability to check for duplicate cases or matters.			
ADM6	Ability to configure granular levels of security (e.g., group, department, folder, file, role based, etc.) for all cases or matter types.			
ADM7	Ability to easily import or export data using industry standard formats.			